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|--|---------------|----------------------|---------------------|------------------|
| APPLICATION NO.  | FILING DATE   | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/823,994   | 04/13/2004    | Yuji Ota             | 09657/0200614-US0   | 5002             |
| 7278   | 7590          | 09/10/2008           | EXAMINER            |                  |
| DARBY & DARBY P.C.<br>P.O. BOX 770<br>Church Street Station<br>New York, NY 10008-0770 |               |                      | HOEY, ALISSA L      |                  |
| ART UNIT   | PAPER NUMBER  |                      | 3765                |                  |
| MAIL DATE  | DELIVERY MODE |                      |                     |                  |
| 09/10/2008   | PAPER         |                      |                     |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                   |
|------------------------------|--------------------------------------|-----------------------------------|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/823,994 | <b>Applicant(s)</b><br>OTA ET AL. |
|                              | <b>Examiner</b><br>Alissa L. Hoey    | <b>Art Unit</b><br>3765           |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 June 2008.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,3,4,6,9-14 and 18-46 is/are pending in the application.
- 4a) Of the above claim(s) 9-14,18-27,31-34,36,37 and 44 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1, 3, 4, 6, 28, 29, 30, 35, 38-43, 45 and 46 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) *Notice of Draftsperson's Patent Drawing Review (PTO-544)*
- 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

#### **DETAILED ACTION**

##### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/26/08 has been entered.

##### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3, 4, 6, 28-30, 35, 38-43, 45 and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Fujii et al. (US 2001-192903).

1. (Currently Amended) A pants garment, comprising:

left and right thigh leg members for covering the left and right thigh and leg areas of a wearer, each thigh leg member independently comprising a first thigh stretchable portion and a second thigh stretchable portion (see figures 34, 37, 38 and 39), wherein said second thigh stretchable portions have a greater tightening force for applying greater pressure than said first thigh stretchable portions, and independently

include a front second stretchable portion thigh elastic band member provided substantially at a front side of each of the thigh leg members, said front second stretchable portion thigh elastic band member extending obliquely from an upper front portion to a lower front portion of each leg member (see figure 34, identifiers 5, 4, 6, 1e, 31), and

a back second stretchable portion thigh elastic band member provided substantially at a back side of each of the thigh leg members, said back second stretchable portion thigh elastic band member extending obliquely from an upper back portion to a lower back portion of each thigh leg member (figure 38, identifier 1):

wherein at least either one of the left thigh leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member extending continuously along the front side from an outer upper portion near the thigh to an inner lower portion of the left or right thigh leg member near the knee and then to an outer portion near the ankle (see figures 34 and 39), respectively, and

wherein the back second stretchable portion thigh elastic band member extends from an inner upper portion to an outer lower portion of each thigh leg member (figure 38, identifier 1).

3. (Currently Amended) A garment as defined in claim 1, wherein at least either one of the left thigh leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member and the back second stretchable portion thigh elastic band member inclined in the same direction (see figures 34, 38 and 39).

4. (Currently Amended) A garment as defined in claim 1, wherein for each thigh

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leg member, the front ~~thigh elastic band member~~-second stretchable portion and the back second stretchable portion thigh elastic band member meet at least at an inner lower portion of the thigh leg member (see figures 37 and 38, identifiers 5a and 31 would meet at an inner lower portion of the thigh).

6. (Currently Amended) A garment as defined in claim 1, wherein at least either one of the left thigh leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (figure 34: identifiers 5, 4, 6).

28. (Currently Amended) A garment as defined in claim 1, wherein the front second stretchable portion thigh elastic band member extends from the lower part of the inside of the corresponding thigh to the corresponding greater trochanter via the upper part of the front surface of the corresponding thigh, and wherein said front second stretchable portion thigh elastic band member is curved in an indented shape toward the upper part of the corresponding thigh (figures 34 and 29, identifiers 5, 4, 6, 1e).

29. (Currently Amended) A garment with a crotch for covering at least part of the lower half of a body, comprising:

a band-like pressure portion at least has, at a front side portion corresponding to the front side of a thigh, a thigh front side pressure portion formed obliquely from above to below the front side portion, and, at a rear side portion corresponding to the rear side of the thigh, a thigh rear side pressure portion formed obliquely from above to below the rear side portion wherein the thigh front side pressure portion extends continuously from an outer upper portion near the waist to an inner ankle lower portion of the left or right

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thigh leg member, respectively, and wherein the thigh rear side pressure portion extends from an inner upper portion to an outer lower portion of each thigh leg member (figures 34, 37, 38 and 39, identifiers 1e, 31, 4, 5, 6, 1, 5a).

In regard to claim 30, Fujii et al. teaches a garment with a crotch for covering at least part of a lower half of a body. A band-like pressure portion, having a front side portion corresponding to a front side of a crus (figure 22). A crus front side pressure portion formed obliquely from above to below the front side portion (1a). A rear side portion corresponding to a rear side of the crus (figure 24). The crus rear side pressure portion formed obliquely from above to below the rear side portion (5a).

35. (Currently Amended) A garment as defined in claim 1, further comprising: left and right pelvic members attached to said the leg members for covering the right and left pelvic areas of a wearer (figures 34, 37, 38 and 39).

38. (Currently Amended) A pants garment, comprising: left and right thigh leg members for covering the left and right thigh areas of a wearer, each thigh leg member independently comprising a first thigh stretchable portion and a second thigh stretchable portion, wherein said second thigh stretchable portions have a greater tightening force for applying greater pressure than said first thigh stretchable portions, and independently include a front second stretchable portion thigh elastic band member provided substantially at a front side of each of the thigh leg members (4, 6, 5, 1e, 31), said front second stretchable portion thigh elastic band extending continuously obliquely from an upper front portion near the waist to a lower front ankle portion of each ~ leg member (figures 34, 37 and 39: identifiers 4, 6, 5, 1e, 31),

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a first back second stretchable portion thigh elastic band member provided substantially at a back side of each of the leg members, said first back second stretchable portion thigh elastic band member extending obliquely from an upper back portion to a lower back portion of each leg member (1 or 5a), and a second back second stretchable portion thigh elastic band member extending from an upper portion to a lower portion of said leg member (1 or 5a), such that the first and second back stretchable portions thigh cross each other (see figure 38).

39. (Currently Amended) A garment as defined in claim 38, wherein at least either one of the left thigh leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member and the back second stretchable portion thigh elastic band member inclined in opposite directions (figures 34 and 38, identifiers 4, 5, 6, 1e, 1, 5a).

40. (Currently Amended) A garment as defined in claim 38, wherein at least either one of the left thigh leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member and the back second stretchable portion thigh elastic band member inclined in the same direction (figures 34 and 38, identifiers 4, 5, 6, 1e, 1, 5a).

41. (Currently Amended) A garment as defined in claim 38, wherein for each thigh leg member, the front second stretchable portion thigh elastic band member and the back second stretchable portion thigh elastic band member meet at least at an inner lower portion of the thigh leg member (see figures 37 and 38: portions 5a and 31 would meet at lower portion of the thigh).

42. (Currently Amended) A garment as defined in claim 38, wherein at least either one of the left leg member or the right thigh leg member has the front second stretchable portion thigh elastic band member extending to a position corresponding to the left or right greater trochanter of a wearer, respectively (figure 34, identifiers 4, 5, 6, 31 and 1e).

43. (Currently Amended) A garment as defined in claim 38, wherein the front second stretchable portion thigh elastic band member extends from the lower part of the inside of the corresponding thigh to the corresponding greater trochanter via the upper part of the front surface of the corresponding thigh, and wherein said front second stretchable portion thigh elastic band member is curved in an indented shape toward the upper part of the corresponding thigh (figures 34 and 39, identifiers 4, 5, 6, 31 and 1e).

45. (Currently Amended) A garment as defined in claim 38, further comprising: left and right pelvic members attached to said thigh members for covering the right and left pelvic areas of a wearer (figures 34, 37, 38 and 39).

46. (Currently Amended) A garment with a crotch for covering at least part of the lower half of a body, comprising:  
a band-like pressure portion at least has, at a front side portion corresponding to the front side of a thigh, a thigh front side pressure portion extending continuously obliquely from above the waist to below the ankle and, at a rear side portion corresponding to the rear side of the thigh, a thigh rear side pressure portion formed obliquely from above to below the rear side portion and a second thigh rear side pressure portion extending

from an upper portion to a lower portion of said thigh such that the first and second thigh rear side pressure portions on said thigh cross each other (figures 34, 37, 38 and 39: identifiers 4, 5, 6, 1e, 31, 1 and 5a).

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 3, 4, 6, 28, 29, 35 have been considered but are moot in view of the new ground(s) of rejection.
4. Applicant's arguments filed 10/12/07, in regard to claim 30 have been fully considered but they are not persuasive.

Claim 30 is the only independent claim that was not amended or newly added. Claim 30 remains rejected over Fujii as described above. Applicant argues that Fujii fails to teach a crus front and rear portion, since Fujii teaches a short garment to the knee.

Examiner notes that the claim only states that there are front and rear crus portions that correspond to a front side and rear side of a crus. The crus begins at a femur or hind limb and extends to the ankle. Fujii teaches a front and back crus portion extending along the femur and hind limb. There is no limitation that requires the front and rear portions to extend the entire length of the user's crus.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to 3 whose telephone number is (571) 272-4985. The examiner can normally be reached on M-F (8:00-5:30)Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Welch can be reached on (571) 272-4996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ALH

*/Alissa L. Hoey/  
Primary Examiner, Art Unit 3765*